IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 615 of 1997
With
SPECIAL CIVIL APPLICATION No. 687 of 1997
With
SPECIAL CIVIL APPLICATION No. 926 of 1997
With
SPECIAL CIVIL APPLICATION No. 939 of 1997
With
SPECIAL CIVIL APPLICATION No. 561 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SURESHBHAI S SHAH & OTHERS - Petitioners
Versus
REGISTRAR & 1 - Respondents

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Appearance :
MR PS CHAMPANERI, MR. SS PATEL AND MR. VM PANCHOLI for Petitioners
MR HEMANT MAKWANA AGP for Respondents : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

Date : 13/12/2007

COMMON ORAL JUDGMENT

1. This group of petitions involve identical question of law and facts and therefore, the same were ordered to be heard together and being disposed of by this common judgment and order.

2. The petitioners have challenged the order dated 31.12.1996 passed by the respondents justifying their earlier order withdrawing the erroneous and wrongful pay fixation granted to the petitioners in the scale of Rs.500-900 on the basis of the deemed date accorded to them in the seniority list. The order is impugned on the ground that the same is passed without considering the material on record and is passed without taking into consideration the facts that grant of pay fixation was consequential upon the order of granting deemed dates to the petitioners.

3. Brief facts deserve to be set out for appreciating the controversy in the present petitions.

4. The petitioners were at the relevant time working as Auditors in the pay scale of Rs.250-480 and at that time, there also existed Auditor Grade-I with a different scale. The Auditors were required to pass the examination

called “GDC&A” for becoming eligible and entitled for receiving the scale available to the Auditor Grade-I, which was admittedly the higher scale than the petitioners received. The passing of GDC&A examination not only the criterion for receiving the scale admissible to Auditor Gr-I i.e passing of GDC&A Examination but the criterion was also that of proved merit and efficiency along with passing of examination known as GDC&A. It was the case of the petitioners that all of them had passed the examination called GDC&A and also completed 3 years and therefore, they were entitled to be promoted to the scale of Auditor Gr-I. At the relevant time, some of the auditors, who were in the employment of State of Bombay and had come to the allocated to the State of Gujarat challenged the Rule that they were not required to pass GDC&A for getting higher grade for promotion as applying that rules would amount to changing their service condition contrary to the State Reorganization Act, 1956. This Court upheld their contention and allowed their petitions.

5. The decision of this Court rendered in those petitions were challenged before the Apex Court, wherein the Apex Court held that the insistence of passing GCD&A examination for promotion post cannot amount to change in service condition and therefore, the insistence was upheld by the Apex Court and as a result thereof, once again the existence and/or requirement was introduced. In the meantime, some promotions had been effected at that time and the assurance was given by the State Government to the Supreme Court that the respondents

would not put to any pecuniary loss as no recovery would be ordered in their cases. Now, this assurance is also required to be borne in mind as it is stated in the above effect upon and bearing upon the pleadings of the present petitioners.

6. The concerned Head of the Department and admittedly not the State of Gujarat issued seniority list in 1978, wherein, without there being a proper application of mind and/or adjudicating about the eligibility of the petitioners, who were in fact promoted only in the year 1976, though they had passed the examination called GDC&A somewhere in the year 1969-70 were given deemed date of promotion as if they would have been promoted in the year 1970. This seniority list rested there only. The persons like petitioners moved this Court by preferring Special Civil Application Nos.4382 of 1983 and 2019 of 1983 excepting one Shri Sheikh inter-alia praying as under :

> *"(A)That a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ order or directions be issued directing the respondents to give consequential financial benefits to the petitioners of their promotion from the deemed date of their promotion from October 1970 as Auditor Gr.I Rs.500-900 made on 29.1.1976.*
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> *(B) that pending the hearing and final disposal of this petition, the respondents be directed to give the petitioners the consequential financial benefits of their promotion in October, 1970 as*

Auditor Gr.I. Rs.500-900 made on 29.1.1976;
(c) cost of this petition be provided for;
(d) To grant such other and further relief as the nature of the case ma require."

7. The Court fixed these matters for final disposal. In the meantime, one of the petitioner namely Shri Sheikh – petitioner of Special Civil Application No. 687 of 1997 approached The Gujarat Civil Services Tribunal, Gandhinagar by preferring an Appeal being Appeal No. 22 of 1981 for seeking the benefits of deemed date and other consequential benefits, which were available to his immediate junior Shri A.B.Patel. As it is stated in the decision of the Tribunal, the Tribunal allowed the appeal and issued directions to consider and pass order equating the case of Shri Sheikh to that of Shri A.B.Patel and ordered consequential benefits on that basis. This order of Tribunal came to be so interpreted by the concerned authority that said Sheikh came to be granted the benefit of notional pay fixation from 1970 and came to be granted actual difference and arrears of salary from 1976 till his actual date of promotion. The present petitioners except Shri Sheikh, made representation to the State Government in light of the decision of the Tribunal seeking benefits as they were the similarly situated persons and submitted that the same benefits be also granted to them. It is to be noted that when this exercise was undertaken by the State Government, the petitions filed by the petitioners before this Court were pending and the issue was at large before the Court for consideration. But for the reasons best known to the

concerned authority, the concerned authority passed an order according such benefits to the petitioners, which were accorded to Shri Sheikh. This has happened somewhere in the year 1992.

8. It deserves to be noted that the petitioners obtained in their favour the similar pay fixation as it was done in case of one Shri Sheikh without specifically mentioning the fact that their writ petition was in fact pending before the Gujarat High Court for same relief. Ultimately, the Court passed an order on 29.6.1994 dismissing the petitions and held that the petitioners were not entitled to seek any benefits as claimed by them in petitions. This decision of the Court dated 29.6.1994 has been accepted by the petitioners and they have not challenged the same in any forum and it has attained the finality. Thereafter, the concerned authority realised its mistake about its granting benefits of fixation to Shri Sheikh and others and passed an order of recovery and withdrew the pay fixation from the deemed date. This orders were impugned before this Court by preferring Special Civil Application No. 2506/93, 2228/93, 4230/93, 4231/93, 5737/93. It deserves to be noted that as the order had been passed without affording an opportunity to the petitioners, this Court quashed and set aside the same and ordered that petitioners be heard. Accordingly after affording due opportunity to all the concerned, the respondents passed an order dated 31.12.1996, which is impugned in the present proceedings in these petitions.

9. Shri Champaneri, learned counsel appearing for the petitioner in Special Civil Application No. 687 of 1997 of Shri Sheikh contended that the petitioner in this petition had never been party to earlier proceedings, wherein, this Court negatived the claim of other petitioners for granting benefit of salary etc. and notional pay fixation. Shri Champaneri heavily relied upon the decision of the Tribunal, which has attained the finality as it has remained unchallenged before any forum. In support of his submission that the earlier order which has been passed in compliance with the Tribunal's direction in the year 1984 was absolutely just and proper and after having it implemented and lapse of about 9 years, it was not open for the respondent State to revive and review its own decision withdrawing the same. Shri Champaneri has submitted that in any event in light of the decision of the Apex Court, the recovery could not have been ordered as the granting of the scale and giving of benefits of notional pay fixation is not said to have been granted by fraud or misrepresentation on the part of the petitioner Shri Sheikh. Shri Champaneri did make this point in addition to the general submissions canvassed on behalf of the petitioners assailing the order impugned dated 31.12.1996 and this was in respect of the petitioner Shri Sheikh in Special Civil Application No.687 of 1997.

10. The counsel for the petitioners submitted that the earlier decision of this Court dated 29.6.1994 in Special Civil Application No. 4362 of 1993 cannot come in their way as resjudicata in as much as this order dated 31.12.1996 is challenged and it is the subject matter. The counsels

have further submitted that giving of deemed date is required to be followed by giving seniority so far as pay fixation is concerned. The pay fixation is required to follow as natural consequence to the event of granting deemed date. Once the respondents have granted the deemed date, the consequential benefit of fixation of pay from at least the actual date of promotion on the basis of the notional pay when the employee was promoted on the deemed date is required to be followed. The counsels have submitted that in the instant case, when they were granted the notional pay fixation and actual benefits from the date of their promotion, it was conscious exercise which they had undertaken way back in the year 1984 in case of Shri Sheikh and therefore, from any point of view, it was not open to the respondent to withdraw the same and ordered recovery. The counsel has submitted that assuming for the sake of argument that withdrew of the pay fixation was legal, valid and proper then also the orders of recovery could not have been passed of the amount received by the petitioner as the pay fixation was continue not on account of fraud or misrepresenation. The recovery is not permissible in light of the catina of decisions of this Court as well as Apex Court. The counsels have relied on the following decisions in support of their aforesaid contention.

(i) 2006(10) Scale p.89

(ii) 2002(2)SLR p.694

(iii)1995 Supp (1) SCC 18.

(iv) (1994) 2 SCC p.521

(v) 2006 III CLR p.463

In view of this, the impugned order deserves to be quashed and set aside.

11. Shri Makwana, learned AGP appearing for the respondents State submitted that in fact the State has not been in the favour of according even the deemed date to the persons like petitioners as their cases were not governed by the cases which were to be adjusted after the judgment of the Supreme Court. Necessary instructions were therefore passed on from the department of Agriculture, Forest and Cooperation way back on 4.1.1982. A copy of which is placed on record, the same is ordered to be taken on record. Despite this, when exercise of according deemed date by the concerned departmental head was done, the deemed date were granted only as per the seniority list, which indicate that there was no conscious exercise on the part of the authority concerned while assigning the deemed date to the concerned petitioners. Shri Makwana has further submitted that the requirement of receiving the pay scale of Auditor Grade-I was not only to pass the examination called GDC&A. In fact, mere passing of examination of GDC&A did not entitle any employee to receive the higher senior pay scale of Auditor Grade-I. In fact, it was a kind of selection procedure, whereunder the concerned employee was required to earn the selection on his proved merit and efficiency in additional to passing of the examination of GDC&A. In view of this, the persons like present petitioners cannot have claimed deemed date as a matter of right. Assuming for the sake of submission that the petitioner barring Shri Sheikh, were

eligible for promotion, then, after three years, as they had passed examination and there was nothing adverse against them, then also, the giving of promotion after conscious exercise of assessing cannot ever be dispensed with by any authority and therefore, in fact the conscious exercise was required to be undertaken to see that each of the employee was eligible and receive the deemed date. Moreover, no employee can claim promotion as a matter of right on attaining eligibility. If it was such then all the employees once having attained eligibility has not actually promoted for any reasons like want of vacancy etc., can claim deemed date seniority and wages from the date of their attaining eligibility.

12. Without prejudice to the aforesaid contention, Shri Makwana has submitted that there exists a specific orders in the form of Government policy indicating that deemed dates are required to be granted only for the purpose of seniority without incurring financial burden in any way, while in the instant case, as could be seen from the record, there was no order at all passed by any competent authority assigning them deemed date indicating that the deemed dates were granted after conscious exercise of their case for deemed dates and the deemed dates were granted without assessing the record of the concerned employee. Therefore, though at this stage, it may not be said that the deemed date itself was wrongfully granted, but it can be said that the monetary benefits on that basis of deemed date ought not to have been granted when the petitioners were agitating for the said benefits before this Court in Special

Civil Application No. 4382 of 1983. It was therefore, the bounden duty of the petitioners to bring to the notice of the State Government about the pendency of the petition in this Court but the petitioners remained silent on this aspect. Shri Makwana has submitted that it was also the duty caste upon the petitioners to bring to the notice of this court in the aforesaid matters which have been disposed of being Special Civil Application Nos. 2506/93, 2228/93, 4230/93, 4231/93 and 5737/93. Shri Makwana has submitted that on one hand, the petitioners have pursued the matter as per the decision of the Tribunal before the State Government and on the other hand, their claim for the identical prayers was pending before this Court and when they succeeded in getting the benefits at the Government level and when this Hon'ble Court negatived their claim, they remained silent and they have not brought this facts to the notice of the Government and they have also not challenged the said decision of this Court dated 29.6.1994 before higher forum and this shows that conduct of the petitioners.

13. Shri Makwana has submitted that it goes without saying that benefits were accorded to the petitioners on the basis of Shri Sheikh. Shri Makwana has submitted that looking to the finding of the Tribunal, it is observed that Shri Sheikh was not found fit for promotion and in any stretch of imagination, Shri Sheikh is not entitled for any better treatment than Shri A.B.Patel and when Shri A.B.Patel has not been granted the benefit of actual date of promotion and therefore, the petitioners are not entitled to any benefits. Shri Makwana has submitted that

in view of this, it can be said that the entire exercise of granting pay scale is actually done under erroneous conception and misinterpretation of the judgment of the Tribunal as well as of the Apex Court and therefore, it was required to be rectified and is rightly been rectified and therefore, he submitted that no interference is required.

14. So far as recovery of the amount is concerned, Shri Makwana has relied on the decision of this Court in case of ***DHIRAJLAL ZAVERDAS PARMAR VS. MANAGING DIRECTOR AND ORS.*** Reported in 2007 (2) GLH p.466 and submitted that in the present case, the petitioners have been wrongfully benefited as they were not entitled to deem date at all and they have been given deemed date in absence of any order of according them any monetary benefits. The said benefits were given to them wrongly under misconception and therefore, the same would not be governed by ratio of the Apex Court, wherein, the Apex Court has said that pay fixation even if erroneously made, employee cannot be subjected to repay the same. He also submitted that in the instant case, there was a representation from the petitioners for seeking parity with Shri Sheikh and in whose case due to some misinterpretation of the direction of Tribunal, some benefits were granted, which were sought to be withdrawn later on. So, it can well be said the petitioners have made misrepresentation before the Government and godded them to pay the same to that extent to petitioners, can be said to have constrained and led the respondents in according them the benefits. Shri Makwana has further submitted that decision of this Court

(Coram: N.J.Pandya, J.)(as he then was) is unequivocally clear that petitioners were not entitled for all these benefits. Shri Makwana has submitted that it was the duty of the present petitioners to inform the Court that they were being given the benefits similar to Shri Sheikh but at that time, the petitioners remained silent and court dismissed the petition. Shri Makwana submitted that if the petitioners have informed the said fact to the Government, the said benefits would not have been continued to the petitioners and therefore, the petitioners are not entitled to any reliefs including non-recovery of the amount as the petitioners were given the deemed date wrongfully.

15. At this stage, Shri Pancholi, learned counsel for the petitioners submitted that AGP has attempted to make out the case, which is not supported by the pleadings as it is not the case of the respondents even in the impugned order that deemed date itself was wrongfully granted.

16. This Court has heard learned counsels for the parties and perused the records and proceedings.

17. The position prevailing when the Supreme Court was seized with the matter deserve to be taken into consideration with regard to the promotion scenario of the Auditors. It is not the case of the present petitioners including Shri Sheikh that because of pendency of the litigation, their promotion chances were adversely affected nor it is the case of the petitioners that they did

not get the promotion after the retirement only account of pendency of the litigation before the Hon'ble High Court as well as Supreme Court. The fact remains to be noted that petitioners came to be promoted only in the year 1976. In case of Shri Sheikh, it deserves to be noted that even in the year 1976, the Selection Committee did not find him fit for promotion. Against this back drop, the entire controversy deserves to be examined. It is also to be noted that the promotion and/or eligibility to receive the higher grade pay scale was not merely a passing of GDC&A examination but the criterion was also that of proved merit and efficiency along with passing of examination known as GDC&A. The Government Resolution, which has been referred to by the respondents in their favour, go to show that the deemed date could be granted without attaching any financial benefits. The deemed date granted remained operative and enforceable in respect of seniority position of the person concerned. It would not incur any financial loss qua the State. It deserves to be noted that the petitioners claim barring the claim of Shri Sheikh, who was not before this Court, had been negatived by this Court (Coram : N.J.Pandya, J.)(as he then was) in the above referred matter vide order dated 29.6.1994.

18. It deserves to be noted that Shri Sheikh, the petitioner in Special Civil Application No. 687 of 1997 had approached the Service Tribunal by preferring Appeal No. 22 of 1981, wherein, the Tribunal while rendering its order in his favour observed that the Selection Committee met in the year 1976 and it did not find him fit for promotion.

However, his case was ordered to be treated at par to that of Shri A.B.Patel, who had been granted deemed date and on that basis, the Tribunal issued directions. The operative portion of Tribunal's order is unequivocally clear that as Tribunal found justification in equating Shri Sheikh's case to that of Shri A.B.Patel ordered accordingly. It is admitted position that when Shri A.B.Patel came to be promoted in the year 1976, as it is recorded by the Tribunal, Shri Sheikh was found not to be fit for promotion. Shri A.B.Patel came to be promoted vide order dated 22.1.1976 and said Shri A.B.Patel was given deemed date of promotion with effect from 16.10.1970. Shri Sheikh, as it is recorded by Tribunal was also replied by the concerned authority that he was found fit by the Selection Committee in its meeting held on 1.10.1976 for promotion in the grade of Rs.500-900 and he was actually promoted vide order dated 7.1.1977. Thus, admittedly Shri Sheikh was promoted subsequent to promotion of Shri A.B.Patel, who was originally junior to Shri Sheikh. To clear it more, it could be articulately mentioned that, Shri A.B.Patel was admittedly junior to Shri Sheikh before the promotion came to be affected. The Promotion Committee/ Selection Committee due to adverse CR in case of Shri Sheikh did not recommend him for promotion, whereas, his junior Shri A.B.Patel came to be promoted with effect from 22.1.1976. Shri A.B.Patel thus, came to be promoted in the grade of Rs.500-900 (old scale 325-575) along with some other persons, whereas, in case of the petitioner Shri Sheikh, the Selection Committee in its meeting held on 1.7.1976 gave promotion vide order dtd 7.1.1977. Shri A.B.Patel was

given deemed date of promotion from 16.7.1970 and Shri Sheikh claimed the same. In this context, the operative portion of the Tribunal's order deserve to be interpreted, wherein, it is stated that the petitioner i.e. Shri Sheikh ought to have been promoted on 22.1.1976, whereon his junior Shri A.B.Patel and others were actually promoted and was further pleased to declare that Shri Sheikh was therefore entitled to deemed date of 16.10.1970, the date which was granted to his junior Shri A.B.Patel in the scale of Rs.325-575 (revised pay scale of Rs.500-900) and therefore, the Tribunal passed necessary directions granting Shri Sheikh deemed date of promotion from 16.10.1970, from where his junior Shri A.B.Patel was granted deemed date and directed the State to fix the pay accordingly. Accordingly, now at this stage, it deserves to be noted that what was ordered by the Tribunal was equity of Shri Sheikh to Shri A.B.Patel and nothing further. However, while interpreting this order of Tribunal, the respondent State considered that Shri Sheikh was required to be accorded the benefits of notional pay fixation from the deemed date i.e from 16.10.1970 and accordingly, it came to be accorded to him. As Shri Sheikh was given the benefit of notional pay fixation from the deemed date, the same treatment was given to present petitioners. In the year 1992, when it was realised that even Shri Sheikh has been wrongfully given the benefit of notional pay fixation by misinterpreting the order of the Tribunal, it was sought to be withdrawn and it was withdrawn accordingly. As the very basis for granting notional pay fixation to Shri Sheikh was wrong and it was withdrawn, the same benefits

granted to other petitioners on that basis, were also withdrawn and the said orders are subject matter of challenge before this Court as the said orders were passed without affording an opportunity to the petitioners and therefore, this Court (Coram: C.K.Thakkar, J.)(as he then was) vide order dated 12.3.1993 in Special Civil Application No. 2228 of 1993 was pleased to quash and set aside the said orders and directed the respondent to afford an opportunity of hearing to the petitioner and the State Government after affording an opportunity of being heard, passed the impugned order dated 31.12.1996, which is impugned in these group of petitions.

19. In view of this, it becomes clear that petitioners except Shri Sheikh had moved the Court by preferring Special Civil Application No. 4382 of 1983 and 2019 of 1983, which came to be rejected by this Court (Coram: N.J.Pandya, J.)(as he then was) vide order dated 24.8.1994. It deserves to be noted that Shri Sheikh, who had moved Appeal No. 22 of 1981 had not approached this Court and he had approached the Service Tribunal and the Tribunal vide order dated 16.9.1982 decided his appeal in his favour and he was given benefits by the State. The present petitioners were granted the same benefits on the line of Shri Sheikh in the year 1992-93 as the similar situated persons were granted the benefits. Thus, the case of Shri Sheikh was governed under the Tribunal's order and it is the stand of the Government that due to misinterpretation of the order of the Tribunal, Shri Sheikh was given the benefit of notional pay fixation and accordingly the payment was given and in case of

Shri Sheikh the correct interpretation is that the Tribunal has equated Shri A.B.Patel and Shri Sheikh. It was the deemed date, which was required to be granted and the notional pay fixation was required to be granted only with effect from 22.1.1976, the date on which Shri A.B.Patel was given actual promotion and therefore, the notional pay fixation in case of Shri Sheikh came to be given only from 22.1.1976 and not from 12.10.1970 as it was not given in case of Shri A.B.Patel. Thus, the mistake was rectified and therefore, the benefits granted to Shri Sheikh were withdrawn. Other petitioners were also granted the same benefits and in their case also the said mistake was rectified and their benefits were withdrawn as the said benefits were never granted in favour of Shri A.B.Patel and Shri A.B.Patel was not granted the said benefits, Shri Sheikh, who claimed to be similarly situated to Shri A.B.Patel was also not entitled to get the same and accordingly, the petitioners, who claimed to be similarly situated persons, were also not entitled to get the said benefits. Furthermore, the deemed date granted to the petitioners and Shri Sheikh in seniority list did not entitle them for monetary benefits and therefore, the petitioners are not entitled to continue with the benefits of notional pay fixation from the deemed date. In view of this, the exercise done by State is absolutely just and proper and order impugned is not required to be interfered with.

20. The aforesaid situation could thus be more articulate by referring the case of Shri A.B.Patel with whom parity was

sought by Shri Sheikh. Shri A.B.Patel, who was admittedly promoted earlier in point of time then Shri Sheikh was given deemed date of his promotion i.e from 12.10.1970. However, said Shri A.B.Patel though was given deemed date of his promotion was not granted any benefits of even notional pay fixation from the deemed date. Therefore, naturally, Shri Sheikh also could not have been ordered to be granted the benefits by the Tribunal. The Tribunal, in fact, ordered that Shri Sheikh ought to have been promoted along with Shri A.B.Patel on 22.1.1976 itself and Shri A.B.Patel was granted benefit of deemed date of the year 1970, the same was ordered to be granted to Shri Sheikh also. Shri Sheikh was in in case nowhere to be better of than Shri A.B.Patel. Admittedly, Shri A.B.Patel has never been granted the benefits of notional pay fixation from deemed date given to him, therefore, Shri Sheikh, who was granted the notional pay fixation from the deemed date in the year 1970, could not have retained same and it was rightly withdrawn. As other petitioners were granted benefit as it was granted in case of Shri Sheikh, they also could not have been entitled to retain the said benefits of notional pay fixation from deemed date. As it is stated herein, the granting of deemed date in seniority then there being specific order of accruing monetary benefits therefore from would not entitled the employee concerned to receive notional pay fixation in view of the circular cited by respondent.

21. In view of this, it can well be said that the order impugned does not suffer from any infirmity so far as

withdrawal of notional pay fixation. However, the recovery upto the date of withdrawal of fixation cannot be ordered in light of the Supreme Court decision. The petitioners are entitled to claim that there was no misrepresentation at their end and therefore, in light of the Apex Court decision, they are not liable to refund the amount received till the impugned withdrawal. At the same time, it deserves to be noted that the petitioners were not entitled to receive the pay fixation and however they were paid under misconception, then the same cannot be ordered to be recovered. There shall be no recovery of any amount paid till the impugned order was passed. Thereafter, the petitioners cannot be paid. It is stated that order of recovery is stayed by this Court and therefore, this Court has no hesitation in otherwise also to hold that the order impugned so far as order of recovery is concerned, is unsustainable and therefore, State is required to be restrained from effecting recovery of the payment paid till the cancellation was ordered. In view of this, these petitions are disposed of as having no merit with a direction to the State not to effect the recovery uptill the order dated 31.12.1996.

22. In view of the aforesaid discussion, this Court is not inclined to accept the petitions and accordingly, the petitions are dismissed. It is directed that no recovery be made till 31.12.1996 and the pay of the petitioners be refixed. Rule is discharged in each petition.

23.At this stage, Shri Pancholi, learned counsel appearing for the petitioners prayed that the interim relief granted earlier may ordered to be continued at least for a period of 6 weeks. The request is accepted. The interim relief granted by this Court earlier shall stands extended till 6 weeks from today.

(S.R.BRAHMBHATT, J.)

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